

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

CHRISTOPHER D. SHURLAND,  
individually and as the  
representative of a class of  
similarly-situated persons,

Plaintiffs,

vs.

BACCI CAFE` & PIZZERIA ON  
OGDEN, INC., and DOES 1-10,

Defendants.

**ORIGINAL**

No. 08 CH 10786

The Discovery Deposition of **JAMES J. TRACY**, called by the Plaintiffs for examination, taken pursuant to notice, taken before MICHELE J. LOSURDO, CSR, a Notary Public within and for the County of DuPage, State of Illinois, and a Certified Shorthand Reporter of said state, taken at 233 South Wacker Drive, Suite 7800, Chicago, Illinois, at the hour of 1:00 p.m., on the 10th of December, A.D., 2008.

**APPEARANCES:**

ANDERSON + WANCA  
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Appeared on behalf of the Plaintiffs;

SMITHAMUNDSEN  
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Suite 3300  
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Appeared on behalf of the Defendants;

SONNENSCHNEIN, NATH & ROSENTHAL, LLP  
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Appeared on behalf of Translink.

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JAMES J. TRACY,

having been first duly sworn, was examined and testified as follows:

**EXAMINATION**

by Mr. Nora

Q. Mr. Tracy, would you please state your name and spell it for the court reporter?

A. James J. Tracy, T-r-a-c-y.

Q. Mr. Tracy, have you been deposed before?

A. No.

Q. You've been -- you're here with your attorney -- your company's attorney and you talked to him about the procedure we're doing here today?

A. Yes.

Q. And you understand that if something I say does not make sense or if you want a question repeated you have to ask me to stop, rephrase or repeat as the case may be; is that correct?

A. Yes.

Q. You'll let me know if I don't make sense?

1 A. Yes.

2 Q. And if at any time during this  
3 deposition if you want to talk to your  
4 attorney, want to take a break or do anything  
5 else, let us know and we'll respond  
6 accordingly, okay?

7 A. Yes. Thank you.

8 Q. Now, in this deposition, we're  
9 concerned primarily with service your company  
10 performed for Bacci Pizzeria at 6920 West  
11 Ogden. If I mention the restaurant or the  
12 store, will you understand that I'm speaking  
13 about those premises?

14 A. Yes.

15 Q. Sir, what is your position?

16 A. Executive vice president.

17 Q. And for what company, sir?

18 A. National Translink Corporation.

19 Q. How long have you been with National  
20 Translink?

21 A. Sixteen years.

22 Q. And were you with any other company  
23 before that?

24 A. Yes.

1 Q. And what was that?

2 A. Cherry Payment Systems.

3 Q. What kind of company was that, sir?

4 A. A credit card sales organization.

5 Q. How long were you there?

6 A. One-and-a-half years.

7 Q. Were you in school before that or

8 working --

9 A. Worked.

10 Q. -- or both? Okay. Where was that?

11 A. CPS, Chemical Personnel Search.

12 Q. And what type of work is that?

13 A. I was a recruiter.

14 Q. How long were you with that company?

15 A. Three years.

16 Q. And briefly what kind of work history  
17 did you have before CPS?

18 A. School.

19 Q. Where was that?

20 A. Loyola University of Chicago.

21 Q. Mr. Tracy, what is National Translink?

22 A. It is an independent sales organization  
23 that sells credit card processing services and  
24 terminals to small business owners.

1 Q. What are your duties there now?

2 A. I oversee all sales and operations of  
3 the organization.

4 Q. What type of services does your company  
5 provide to small businesses?

6 A. We have a sales staff that provides the  
7 credit card machines and sells on behalf of a  
8 bank the services that go in the credit card  
9 machines to the small business owners.

10 Q. Do you sell those as a package or  
11 separately or both?

12 A. I don't --

13 Q. Let me rephrase it. If I'm a small  
14 business person and you want to sell something  
15 to me, you sell me the machines if I want the  
16 machines, correct?

17 A. Correct.

18 Q. And you mentioned bank services. Would  
19 you please describe to me as though I were just  
20 setting up my first credit card system what  
21 kind of services I need and after that, I want  
22 to know which of those services you'll provide,  
23 so first what services will I need to run  
24 credit cards through my business?

1           A.     A processor will have to program that  
2     machine so that it will work so that when a  
3     credit card gets run through the machine, it  
4     can contact a processing center to know if that  
5     card is approved or not, so we act as a  
6     go-between between the small business owner and  
7     the processing centers and the banks which  
8     settle the funds every day. So in ordinary  
9     terms when the credit card goes through the  
10    machine, it contacts a processing center, that  
11    processing center approves the transaction and  
12    if that transaction is approved, a bank needs  
13    to settle those funds.

14           Q.     When you say the bank settles those  
15    funds, money goes from where to where, if you  
16    could tell me?

17           A.     From the bank to the small business  
18    owner's checking account.

19           Q.     So, for instance, if I'm setting this  
20    system up, the processing center will read  
21    whether the card is a MasterCard or a Visa and  
22    determine whether or not it's an authorized  
23    transaction; is that correct?

24           A.     Yes.



1 Q. Or some other type of card?

2 A. Correct.

3 Q. If it's authorized, then the processing  
4 center will contact the appropriate bank for  
5 the card issuer and obtain -- let me change  
6 that. After obtaining the authorization, which  
7 bank is also contacted?

8 A. There are multiple banks that are  
9 contacted and Visa and MasterCard are  
10 contacted. There is an issuer that issued the  
11 credit card to the cardholder and there is an  
12 acquirer -- acquiring bank. That's the bank  
13 that we are the sales organization for that  
14 settles the transactions, so the bank that we  
15 work for gives the small business owner their  
16 money. They contact Visa and MasterCard. Visa  
17 and MasterCard goes to the issuer who gave that  
18 guy the card and the issuing bank gives the  
19 money to the acquiring bank.

20 Q. So the bank you're working with then  
21 essentially is advancing the money that  
22 ultimately comes from the issuing card's bank  
23 to the --

24 MR. ANDREOLI: I'll object to the form.

1 BY MR. NORA:

2 Q. Your bank, the acquiring bank  
3 immediately pays money into the small business  
4 person's bank?

5 A. Within 48 hours.

6 Q. Within 48 hours?

7 A. Yes.

8 Q. Is there one acquiring bank that your  
9 company works for?

10 A. Yes.

11 Q. What is the name of that bank?

12 A. Merrick Bank, M-e-r-r-i-c-k, Bank.  
13 They're a division of a company called  
14 CardWorks.

15 Q. What is their main address, sir?

16 A. I do not know. It is in New York.

17 Q. Do you know the corporate name for that  
18 bank?

19 A. I believe CardWorks is their publicly  
20 traded name. I don't know what to call that  
21 but their public name.

22 Q. Who is the primary contact at Merrick  
23 Bank for Translink?

24 A. We have many contacts. I don't know

1       who -- we have many contacts.

2           Q.     Can you give me the highest ranking  
3       contacts you have there?

4           A.     Yes, if you give me a moment.

5           Q.     Take your time.

6           A.     Can we come back to that question?

7           Q.     Surely.

8           A.     For some reason, his name -- my contact  
9       who is the senior vice president there is  
10      drawing a blank at a moment but I'll come up  
11      with it.

12          Q.     Has that acquiring bank been the same  
13      one during your entire tenure at Translink?

14          A.     No.

15          Q.     How long has that bank been the  
16      acquiring bank?

17          A.     Approximately seven-and-a-half years.

18          Q.     And have they been the only acquiring  
19      bank for the last seven-and-a-half years?

20          A.     Yes.

21          Q.     Now, if you're making the sales call to  
22      me, if I already have a machine, do you still  
23      sell me the services?

24          A.     We don't sell them the services. We

1 provide access to the services.

2 MR. ANDREOLI: I'm going to -- I'll  
3 object to the form to the extent it was  
4 ambiguous. If you understand the question,  
5 answer it. If you need clarification,  
6 please feel free to ask counsel.

7 THE WITNESS: I'm sorry.

8 BY MR. NORA:

9 Q. Treat me as a small business owner who  
10 likes to sound like he knows what he's talking  
11 about. Straighten me out. When you come to my  
12 company to see if I want these services, are  
13 you providing the service to me for a fee or  
14 are you working for someone else who will then  
15 charge?

16 A. We work for somebody else who will  
17 charge you. That is the acquiring bank.

18 Q. And when you come to me, will one of  
19 your salespeople approach me or will I have  
20 already been contacted by the bank's  
21 salespeople?

22 A. No. It would be our salespeople that  
23 would contact you, yes.

24 Q. And would your salespeople take care of

1 making the contract out for the services that  
2 you're providing?

3 A. Yes.

4 Q. Now, you provide machines and bank  
5 services. When you provide machines, is that  
6 sale, lease or both?

7 A. Both.

8 Q. And if I'm purchasing the machines, who  
9 would I be purchasing the machines from?

10 A. My company.

11 Q. If I'm leasing the machines, who would  
12 I be leasing the machines from?

13 A. We've used a large number of different  
14 leasing companies throughout the last 15 years.

15 Q. So you would -- and if I'm using the  
16 wrong word tell me, but you would broker a  
17 lease between another company and my company?

18 A. Correct.

19 Q. Now, when you provide this service, if  
20 I already have machines, will you sell me the  
21 banking services alone or will you always  
22 provide the machines with the banking services?

23 A. No. We will provide those other  
24 services without the machine, but it's not

1 actually us providing the service.

2 Q. Tell me exactly what you do to set this  
3 up for me and what, if anything, you have to do  
4 with it afterwards.

5 MR. SAMORE: Object to the compound  
6 nature.

7 MR. ANDREOLI: It also calls for a  
8 narrative.

9 BY MR. NORA:

10 Q. I want to do business with you. Tell  
11 me what you will do for me to get me started  
12 with the credit card transactions in my  
13 business.

14 A. If I was a salesman?

15 Q. Yes. What will Translink do for me?

16 A. If you were a business owner and you  
17 already had a credit card machine and you  
18 wanted the services, we would come in with a  
19 bank application or we could mail it or fax it  
20 to you. You would fill out a bank application.  
21 We will assist you with it if necessary. We  
22 will submit that bank application to the bank  
23 after reviewing it ourselves, get an approval  
24 on it and if it's approved, contact a

1 processing company to program your machine so  
2 that it can contact the processing company and  
3 get the credit card approvals.

4 Q. Who handles actually setting the  
5 machine up for contacting the processing  
6 center, does your company do that or do you  
7 have someone else do that?

8 A. I don't understand the question.

9 Q. Maybe I was writing and not paying  
10 enough attention to the last part of your  
11 answer. You're going to contact another  
12 company about setting me up with the processing  
13 center?

14 A. Correct.

15 Q. Do you use one company or multiple  
16 companies?

17 A. Multiple companies.

18 Q. What type of companies are those?

19 A. We use two as far as I know currently.  
20 One is called Vital I believe.

21 Q. How do you spell that, sir?

22 A. V-i-t-a-l.

23 Q. And the other one?

24 A. Is called currently CardWorks. It's

1 part of Merrick Bank. They recently purchased  
2 the processing center in Arizona formerly known  
3 as Pay By Touch Processing.

4 Q. How long have you been using only those  
5 two companies, CardWorks and Vital?

6 A. Are you asking -- because CardWorks has  
7 changed hands like four or five times over the  
8 last seven years.

9 Q. If you can, in 2004 and 2005 which  
10 companies were you using at that time?

11 A. We were using CardWorks and Vital.

12 Q. Now, after you contact one of those  
13 companies to set up my processing, what will  
14 they do?

15 A. They will send a -- what is called a  
16 download. That is a computer program to your  
17 machine that can actually dial into the  
18 machine. Depending on the machine, they may  
19 have to call you first and have you hit  
20 something on the machine or they may be able to  
21 dial directly into the machine and send a  
22 program into that machine, a computer program  
23 to be more specific.

24 Q. Tell me, is that something that



1 typically is done as a matter of routine?

2 A. Yes.

3 Q. So if I'm going to be running a credit  
4 card machine in my business, I have to be --  
5 the machine has to be accessible to this  
6 company to downloading programs, correct?

7 A. To some company, yes, that does  
8 processing.

9 Q. If the machine is actually operating  
10 where it's turned on processing credit card  
11 transactions, is the machine accessible at that  
12 time to the company that would download these  
13 programs?

14 MR. ANDREOLI: Foundation.

15 BY THE WITNESS:

16 A. I'm not sure. I don't know.

17 BY MR. NORA:

18 Q. Once you set up my company or a company  
19 with either Vital or CardWorks, will your  
20 company be providing me with any additional  
21 services in the future?

22 A. Yes.

23 Q. What services will your company be  
24 providing the small business?

1           A.     We will provide normal customer service  
2           questions during the daytime hours meaning 8:00  
3           to 5:00 approximately central time. If you  
4           have questions on your statement, your account,  
5           the way your terminal works, we have technical  
6           support and customer support people that can  
7           answer questions and help you out. We also  
8           send the monthly statements to the customers  
9           that we receive from the processing center.

10          Q.     Does the processing center have a name?

11          A.     The one that I've been referring to is  
12          CardWorks processing which is --

13          Q.     That is Merrick Bank?

14          A.     It's not at Merrick Bank. It's in  
15          Arizona. It's now owned by Merrick Bank. It  
16          was formerly Pay By Touch Processing which  
17          before that was Card Systems and before that  
18          was Maverick.

19          Q.     That's Maverick?

20          A.     That's Maverick, yes. You've heard of  
21          Maverick.

22          Q.     Was it Maverick in 2004?

23          A.     I do not know. I don't know in 2004  
24          what they were referred to as. My best

1       recollection is Maverick, yes.

2           Q.     Now, when you say customer service  
3       questions, by customer, are you referring to  
4       the small business operators or their customers  
5       or both?

6           A.     Just the small business owners.

7           Q.     And your technical support people, are  
8       they part of your staff or would you obtain  
9       them elsewhere?

10          A.     Part of my staff.

11          Q.     And what other type of support staff do  
12       you have besides technical support?

13          A.     Customer service, accounting,  
14       salespeople.

15          Q.     When you receive customer service  
16       questions, do you make records of those  
17       questions that come in from the customer?

18          A.     Sometimes.

19          Q.     When you provide technical support,  
20       does that technical support also include  
21       reprogramming faulty machines or just  
22       reprogramming advice over the phone?

23          A.     We do have -- sorry.

24               MR. ANDREOLI:   Object to the form.

1 BY MR. NORA:

2 Q. Tell me what type of technical support  
3 your people can provide.

4 A. We can program machines if they were a  
5 certain type of machine. If we have provided  
6 that machine, more than likely we have the  
7 technology within our office to help program or  
8 reprogram that machine. Other technical  
9 support would be a person had questions on how  
10 to operate their tip functions. Say if they  
11 were a restaurant and they're not sure how to  
12 put a tip into their credit card machine, that  
13 would be a technical support question or if  
14 they get some kind of error message on the  
15 machine, we can often look at a guide and  
16 figure out what buttons to push to get out of  
17 that error.

18 Q. Normally any reprogramming that has to  
19 be done on the machines, however, would not be  
20 handled by Translink, am I correct, after it's  
21 in operation?

22 A. If we did not provide the machine, it  
23 would normally not be us to help them. If we  
24 provided the machine, we would normally help

1 with the programming or reprogramming of that  
2 machine.

3 Q. If the business is providing its own  
4 machine and does not obtain it from Translink,  
5 do you still provide technical support for that  
6 business?

7 A. We will attempt to if we can.

8 Q. Now, do I know now the scope of your  
9 services for the small business that might  
10 obtain them from Translink?

11 MR. ANDREOLI: Object to the form of  
12 the question. That's an extended  
13 hypothetical.

14 BY MR. NORA:

15 Q. Not to trap you or anything, is there  
16 anything else I should know that you could  
17 think of as you sit there about the type of  
18 services you would offer to a small business?

19 MR. ANDREOLI: Same objection.

20 BY MR. NORA:

21 Q. Can you answer it?

22 A. I don't believe there is anything else  
23 that's important, no.

24 Q. That's all. Now, have you reviewed the

1 documents that Translink has submitted in  
2 discovery of this case so far?

3 A. Yes.

4 (Document marked as Translink  
5 Exhibit No. 1 for identification.)

6 BY MR. NORA:

7 Q. Jim, this first batch of documents that  
8 I'm showing you now is just the first  
9 production request, but I'm interested in the  
10 type of document that appears at the --  
11 starting at the second page of these documents.  
12 Could you just tell us what kind of document  
13 I'm looking at on this?

14 MR. SAMORE: I just want to state for  
15 the record that we received this response  
16 yesterday even though it had been produced  
17 back in August of 2008 and, therefore, we  
18 object to use of these documents on grounds  
19 of late disclosure.

20 Obviously you could answer  
21 questions, but we want to preserve our  
22 objection for the record on the grounds of  
23 the late notice. There were a number of  
24 things we would have done if we had this

1 earlier.

2 MR. NORA: Do you need time?

3 MR. SAMORE: No, nothing further.

4 BY MR. NORA:

5 Q. What kind of document is this, sir?

6 A. That's a monthly statement.

7 Q. Is this the statement that you provide  
8 to the customer as part of the services?

9 A. Yes.

10 Q. And what does this statement show  
11 briefly?

12 MR. ANDREOLI: Do you have a specific  
13 question, Counsel?

14 BY MR. NORA:

15 Q. Am I correct in my understanding that  
16 this statement summarizes the transactions on a  
17 daily basis?

18 A. Yes.

19 Q. And it gives the number of transactions  
20 that you processed for each day that a process  
21 was actually undertaken; is that correct?

22 A. I don't believe it does. I could  
23 answer that --

24 Q. It shows monthly totals?

1           A.     It does show monthly totals.

2           Q.     And it shows daily totals of money,  
3 correct?

4           A.     Correct, it shows daily totals of  
5 money.

6           Q.     And the monthly totals break it down by  
7 card -- should I say card issuer or card name?

8           A.     Issuer.

9           Q.     Now, we received additional discovery  
10 from you since then.

11           MR. NORA:   You know what I'm talking  
12 about?

13           MR. SAMORE:   Right, which we received  
14 yesterday.

15           MR. NORA:   Some of which we received  
16 yesterday too.

17 BY MR. NORA:

18           Q.     The further documents that have been  
19 recently turned over or obtained from  
20 Translink, are these itemized individual  
21 transactions?

22           A.     Yes.

23           Q.     And would these cover all of the  
24 individualized transactions for the subject



1 restaurant 6920 West Ogden Avenue?

2 A. It does not cover all their  
3 transactions. There are days we could not  
4 acquire.

5 Q. And we would be able to -- okay.  
6 Withdraw that question.

7 Are these records only for the store at  
8 6920 West Ogden?

9 A. Yes.

10 Q. And similarly on the first monthly  
11 processing statements that I showed you, those  
12 statements are only for the store at 6920 West  
13 Ogden; is that correct?

14 A. I would have to take a look at them  
15 again to be certain --

16 Q. Yes, sir.

17 A. -- to make sure nobody made a mistake.  
18 Yes, it appears they're all 6920 West Ogden.

19 Q. If I could go back to a few questions  
20 on procedures. You're acquainted with  
21 truncation requirements that are now in force  
22 under federal law for credit card machines?

23 A. I have some familiarity, yes.

24 Q. Are you acquainted with the truncation

1 requirements that went into effect over  
2 2005-2006?

3 A. I have some familiarity, yes.

4 Q. Do you recall Translink doing anything  
5 specifically to alert its customers of those  
6 requirements at any time?

7 A. Yes.

8 Q. And if we could start at the beginning,  
9 what is the first thing that Translink did with  
10 respect to alerting its customers on issues  
11 pertaining to truncation?

12 MR. SAMORE: I just want to say for the  
13 record I object on lack of foundation.  
14 Customers is a very vague word but subject  
15 to my objection.

16 BY MR. NORA:

17 Q. Do you understand the question?

18 A. I believe so.

19 Q. Respecting truncation, I mean by  
20 truncation the limitation of information on  
21 customer receipts and including customer --  
22 excuse me, customer credit card numbers and  
23 expiration dates and if I use the word  
24 truncation, we will share that understanding of

1       what the word means?

2           A.     Yes.

3           Q.     What is the first thing you recall  
4       Translink doing about limiting or truncating  
5       credit -- customer credit card receipts?

6           MR. ANDREOLI:   Not to put too fine a  
7       point on it because we did have an objection  
8       but you've defined the prior term, you're  
9       talking about customers generally?

10          MR. NORA:   Yes, sir.   Thank you.

11       BY THE WITNESS:

12          A.     We notified customers on their  
13       statements in approximately early 2005 that  
14       they would have to be certain that their  
15       terminals were properly programmed.   If not,  
16       they could contact us or the processing center  
17       and we could direct them to the place where  
18       they could get help.

19       BY MR. NORA:

20          Q.     When you say notified customers, you're  
21       talking about your customers using your  
22       services, correct?

23          A.     Correct.

24          Q.     And that would have been on the

1 statements that you sent to your customers?

2 A. Correct.

3 Q. And that would be found on the  
4 statements that we looked at earlier today?

5 A. No.

6 Q. That would be a billing statement that  
7 it would appear on?

8 A. That would be a statement that is no  
9 longer available because we cannot hang on to  
10 Visa and MasterCard transactions or statements  
11 for more than two years. We have no records  
12 before 2006.

13 Q. Now, these statements that you issue,  
14 are those statements charging the customers  
15 money for your services? Let me try to talk  
16 English.

17 Are those billing statements that these  
18 warnings were put on?

19 A. They were billing statements.

20 Q. And did every customer you have in  
21 early 2005 receive such a billing statement  
22 with the warning -- with alert on the  
23 truncation?

24 MR. SAMORE: Objection, lack of

1 foundation.

2 BY THE WITNESS:

3 A. I don't know that every customer  
4 received it.

5 BY MR. NORA:

6 Q. What do you know about sending out that  
7 information in 2005?

8 A. We sent it to every billing address in  
9 our system at that time.

10 Q. Now, earlier when we were talking as  
11 though I was a small business owner, you didn't  
12 tell me how I was going to pay you. Do you  
13 pull that automatically out of my checking  
14 account or do you send me a statement and wait  
15 for me to pay it?

16 A. We don't take any.

17 MR. ANDREOLI: Form.

18 BY MR. NORA:

19 Q. How would I pay for the billing  
20 services or for the services you provide?

21 A. The bank, acquiring bank, in our case  
22 Merrick Bank when we send you that statement,  
23 they will ACH or automatically take that money  
24 out of your checking account. They then pay us

1 a piece of that money.

2 Q. When you send the statement to the  
3 customer, what information is contained in the  
4 statement?

5 A. The daily transaction totals, the  
6 address, the number of transactions for the  
7 month, any statement fees you may have or  
8 monthly minimum fees you may have and any other  
9 miscellaneous fees you may have in the  
10 processing.

11 Q. When you sent out this information in  
12 early 2005, was it printed on the statement  
13 itself or was it an insert with the statement  
14 or how was it otherwise communicated?

15 A. It was printed on the statement. I do  
16 not know if we sent an insert as well at that  
17 time.

18 Q. To the best of your recollection, tell  
19 me the specific advice given to your customers  
20 on that first notification.

21 A. I don't know exactly how it was worded.  
22 My best recollection would be attention all  
23 customers, please take a look at your credit  
24 card receipt to make sure the customer card

1 number is not appearing on their copy. If this  
2 is occurring, please contact us immediately at  
3 these numbers.

4 Q. Do you recall who was in charge of  
5 putting that alert together for Translink?

6 A. Yes, that would have been David  
7 Borosak.

8 Q. Would you spell his last name, please?

9 A. B-o-r-o-s-a-k.

10 Q. Is he still with the company?

11 A. Yes.

12 Q. What is his position?

13 A. Risk manager.

14 MR. ANDREOLI: Counsel, I'm going to  
15 pose a brief objection. I think we referred  
16 to the document that was being described as  
17 ultimately a notice, a warning, an alert. I  
18 think the witness is referring to it as a  
19 notice, just noting that for purposes of the  
20 record.

21 BY MR. NORA:

22 Q. Forgive me, I sound like a plaintiff's  
23 attorney sometimes. This was the notice we've  
24 been talking about through this time, correct?

1           A.     Yes.

2           Q.     After that first notice, what is the  
3 next thing you recall Translink doing about  
4 truncation requirements?

5           A.     We put a list together of approximately  
6 200 businesses that we felt may be subject to  
7 truncation issues and we called all of those  
8 customers.

9           Q.     How did Translink determine which  
10 customers would probably be at risk with  
11 respect to these requirements?

12          A.     Based on the type of credit card  
13 machine that we knew they had in our system.  
14 We did not know for sure if it would be good or  
15 bad. We felt it important to contact them,  
16 make them aware that they had some  
17 responsibility there.

18          Q.     Let me jump ahead a little bit. In  
19 preparation for this deposition, you looked at  
20 the records for 6920 West Ogden, Bacci  
21 Pizzeria?

22          A.     Yes.

23          Q.     Do you know from your review and  
24 preparation what type of machine they had?



1 A. Yes.

2 Q. Did they have one of the machines that  
3 would have been on -- that would have qualified  
4 them for these calls that were made in 2005?

5 A. Yes.

6 MR. SAMORE: There has been no  
7 foundation as to what type of machine it  
8 was.

9 BY MR. NORA:

10 Q. What type of machine was it?

11 A. A Hypercom, H-y-p-e-r-c-o-m, T7P.

12 Q. And why was that machine a problem for  
13 the truncation?

14 A. The early versions of applications, I  
15 don't know if I'm being too technical, of the  
16 programs that went into those machines because  
17 it was a machine that came out many years  
18 before the truncation rules came out, the early  
19 applications did not apply, did not truncate  
20 the card number.

21 Q. When you say the applications, are you  
22 talking about the computer software inside the  
23 machine?

24 A. No. We're talking --

1 Q. What are you talking about?

2 A. We're talking about the program that is  
3 going to talk to that machine and make it  
4 operate and make it function.

5 Q. When you called the customers with this  
6 old machine, what did -- what did Translink  
7 instruct them to do, specifically the Hypercom  
8 TC7P?

9 A. T7P.

10 Q. We contacted them and let them know to  
11 make sure that it was properly truncating the  
12 number and we gave them a telephone number in  
13 Arizona to contact the processing center to get  
14 their machine reprogrammed if it wasn't  
15 truncating the credit card numbers?

16 MR. ANDREOLI: I think it was contained  
17 in the answer, but my objection to the  
18 question had to do with the characterization  
19 of instruction.

20 BY MR. NORA:

21 Q. That was advice, right?

22 A. Yes.

23 Q. Would that have been the same advice  
24 you gave to everyone with that machine whether

1       they leased it from you or not?

2           A.     We would have never leased that  
3       machine.

4           Q.     So that machine was only for customers  
5       who had obtained it elsewhere, correct?

6           A.     Correct.

7           Q.     And you were taking the extra step of  
8       alerting them that they might have a problem  
9       with it?

10          A.     Correct.

11          Q.     And the processing center number that  
12       you gave them was something to enable them to  
13       comply with their responsibilities, correct?

14          A.     Yes.

15          Q.     And who handled the calls to the 200 or  
16       so customers who had this old machine?

17          A.     We had I believe two customer support  
18       slash technical support people calling the  
19       customers.

20          Q.     Was it their job to make contact with  
21       each one of your customers who had this old  
22       machine?

23          A.     We asked them to at least leave a  
24       message. We couldn't guarantee that they could

1 get ahold of the ownership or a manager but  
2 they felt it important to at least get a  
3 message to everybody.

4 Q. To the best of your recollection, when  
5 was this program of notification undertaken?

6 A. In 2006.

7 Q. Do you recall what part of 2006?

8 A. I believe June of 2006.

9 Q. What is the next thing you recall --  
10 let me stop, a different question.

11 Do you know how successful your  
12 customer reps were in contacting people about  
13 this problem?

14 MR. SAMORE: Objection, lack of  
15 foundation.

16 BY THE WITNESS:

17 A. I don't.

18 BY MR. NORA:

19 Q. Do you have any idea how many they  
20 were -- let me -- you would have a number for  
21 each one of your customers, correct?

22 A. Yes.

23 Q. And are you able to say that your  
24 customer reps would have called -- at least

1           called each number?

2           A.     Yes.

3           Q.     And would your customer reps have  
4           called each number until they either talked  
5           with someone or left a message on a recording?

6           A.     I don't know the answer to that.

7           Q.     Do you know the customer reps who  
8           undertook this notification?

9           A.     Yes.

10          Q.     And what are their names?

11          A.     Noel Carey, C-a-r-a-y -- e-y, I'm  
12          sorry.

13          Q.     Is Noel N-o-e-l or e-l-l-e?

14          A.     N-o-e-l and it's a man, Noel, and Doug  
15          Porch, P-o-r-c-h.

16                 MR. SAMORE: Were they technical or  
17          customer reps?

18                 THE WITNESS: They did both. Some of  
19          our people were cross-trained in customer  
20          support and helping with the technical  
21          issues.

22          BY MR. NORA:

23          Q.     Are they still with the company?

24          A.     Noel is still with our company. Doug

1 is no longer with us.

2 Q. Do you know where Doug is?

3 A. I don't.

4 Q. After this notification around June of  
5 2006, what is the next thing that Translink did  
6 respecting truncation?

7 A. After I received notice that they made  
8 all attempt at contacts, I don't believe we  
9 made any other contacts with the customers.

10 Q. The phone number that you provided your  
11 customers with, was that number provided on a  
12 sticker or any other piece of paper to attach  
13 to the machines that were in use?

14 A. We give a phone number on the machines  
15 that we placed a little sticker for our 800  
16 telephone number, but there was also an 800  
17 number to the processing center depending on  
18 the type of machine.

19 Q. On the Hypercom T7P, what phone number  
20 would have been placed on that machine?

21 A. We would have sent -- we wouldn't have  
22 placed any sticker on that machine. We would  
23 have sent them a sticker that they could place  
24 on the machine with their welcome kit.

1 Q. And what number would that be for?

2 A. That number would be for National  
3 Translink.

4 Q. Now, did your company ever provide  
5 instructions on how to reprogram the Hypercom  
6 T7P for truncation?

7 A. I'm not sure of the question.

8 Q. If I had a Hypercom T7P, would I have  
9 ever been able to obtain technical assistance  
10 from Translink on how to reprogram it or change  
11 it in my store?

12 A. No, no, we would have not been able to  
13 reprogram it. We would have been able to give  
14 assistance so you could contact somebody else  
15 that could reprogram it, but we couldn't  
16 actually do any reprogramming of the machine.

17 Q. Now, the assistance that you would give  
18 me about getting someone else to reprogram the  
19 machine, what kind of assistance would that  
20 have been?

21 A. It would have been giving you a phone  
22 number of another place that you could contact  
23 that could -- which would be the processing  
24 center in Arizona that could reprogram the

1 machine. We could -- I'll elaborate. We could  
2 after it was reprogrammed give you some advice  
3 on how to use the functionality of the machine,  
4 in other words, entering a tip again as the  
5 example I gave earlier or how to batch out the  
6 machine at the end of the day. A batch -- I  
7 don't want to talk too long. A batch is when  
8 you check out at the end of the day.

9 Q. That's the day end report?

10 A. Yes.

11 Q. I've been seeing that and I didn't know  
12 what that meant. Thank you.

13 A. Yes.

14 Q. But that advice you just described  
15 about working on the tips and helping with the  
16 batches, that would have been a follow-up after  
17 the machine was programmed for truncation  
18 purposes?

19 A. Typically, yes. It could have been  
20 told before I mean if you asked before it  
21 happened, but more than likely, your questions  
22 would come afterwards.

23 Q. Now, if someone received advice over  
24 the phone on how to reprogram their Hypercom



1 T7P for purposes of truncation, that advice  
2 would have come from a company other than  
3 Translink, am I correct?

4 A. I guess it depends on the term advice.

5 Q. I'm sorry. If I'm getting instructions  
6 on the phone for actually punching in numbers  
7 or keys to change my Hypercom T7P for  
8 truncation purposes, that specific advice would  
9 never have come from Translink, am I correct?

10 A. Correct.

11 Q. The only advice you would have given  
12 your customers on how to obtain truncation on  
13 the Hypercom T7P would have been that 800 phone  
14 number to call at the processing center?

15 A. Yes.

16 Q. And that processing center in 2005 to  
17 2006 would have been?

18 A. I believe at that time they were called  
19 Card Systems. I believe a little earlier they  
20 were called Maverick and some of the reports  
21 you may see still say Maverick at the top, but  
22 I believe they were officially called Card  
23 Systems was the company at the time even though  
24 they kept the name Maverick on the top of some

1 of the reports that they provided.

2 Q. If specific customers called you after  
3 your notification efforts expressing a problem  
4 with truncation, would you have continued to  
5 provide them with that same 800 number at the  
6 processing center with respect to the Hypercom  
7 T7P?

8 A. Yes.

9 Q. Has there been any other type of  
10 assistance that you provided for customers  
11 since then respecting truncation on the  
12 Hypercom T7P to your knowledge?

13 A. I don't know. I don't know.

14 Q. You said that you had sent those first  
15 notifications to all customers' billing  
16 addresses. In reviewing the documents for your  
17 deposition today, did you have a billing  
18 address for the pizzeria -- the Bacci Pizzeria  
19 of 6920 West Ogden, Berwyn, Illinois when that  
20 notification went out?

21 A. I don't know the exact date that Bacci  
22 Pizzeria joined us at that location. I know  
23 the first location that we signed up was not  
24 that location in '04. They certainly would

1 have received that notification, but I don't  
2 know exactly when 6920 became a customer.

3 (Document marked as Translink  
4 Exhibit No. 2 for identification.)

5 BY MR. NORA:

6 Q. Here is part of the documents that we  
7 received from Translink. Would you review that  
8 and make sure I haven't misplaced any pages and  
9 tell me if you recognize it?

10 A. It looks like what we provided.

11 Q. What is that, sir?

12 A. That is a bank application for credit  
13 card processing.

14 Q. And would this have been part of that  
15 initial contract procedure that you described  
16 earlier with Bacci?

17 A. Yes.

18 Q. And are you able to tell is this for  
19 the restaurant at 6920 West Ogden?

20 A. Yes.

21 Q. Are you able to tell from that document  
22 when that document was completed?

23 A. Yes.

24 Q. And is that date May 11, 2004?

1           A.     Yes, it is.

2           Q.     And would the billing address for that  
3 service have been 6920 West Ogden Avenue?

4           A.     Yes.

5           Q.     And would that billing address have  
6 remained the same throughout the time that  
7 Translink provided service to Bacci Pizzeria,  
8 if you know?

9           A.     I don't know.

10          Q.     What would you do to find out if this  
11 was the billing address throughout 2005?

12          A.     I would have to contact the processor  
13 because it's information we wouldn't have held  
14 onto. I know that post -- in the statements we  
15 provided that they all went to 6920. I have no  
16 reason to believe they didn't always go there  
17 but they did have another location with us and  
18 they may have requested at the beginning that  
19 all statements went there. It is common that  
20 small business owners if they have multiple  
21 locations ask for all their statements to come  
22 to one location as opposed to getting mail  
23 everywhere. I know that the documents I  
24 provided you for the last couple years all went

1 to 6920 West Ogden.

2 Q. When you say the other location, are  
3 you speaking of the Melrose Park restaurant  
4 owned by the same owners as the 6920 West Ogden  
5 restaurant?

6 A. Yes, there were two other locations  
7 that did business with us.

8 Q. Did you contract for those two other  
9 locations at the same time you contracted for  
10 service at 6920 West Ogden?

11 A. No.

12 Q. When did you contract for services at  
13 those two other locations, if you know today?

14 A. I know the first one was in 2003 and at  
15 that time they purchased one of our credit card  
16 terminals that we would provide which was  
17 called a Lipman 3020 Nurit. It's a long name,  
18 N-u-r-i-t, L-i-p-m-a-n 3020. That they  
19 purchased from us and that terminal we  
20 programmed and provided to the first location.  
21 They then signed up the two other locations  
22 with the Hypercom T7Ps approximately one year  
23 after signing the contract for the other  
24 location.

1           Q.    Am I correct in saying that for the  
2           entire time you provided contractual services  
3           for Bacci Pizzeria at 6920 West Ogden Avenue,  
4           the billing statements would have gone either  
5           to 6920 West Ogden Avenue in Berwyn or to  
6           another address that the owners directed you to  
7           send the billing statements to?

8           A.    Yes.

9           Q.    And by the owners, are we speaking  
10          about Chiara Didiana and Vincent Didiana?

11          MR. ANDREOLI:   Foundation.

12          BY MR. NORA:

13          Q.    Who do you know -- understand the  
14          owners to be?

15          A.    I understand the owners to be Chiara L.  
16          Didiana and Vincent something Didiana.

17          Q.    A husband and wife, correct?

18          A.    Yes.

19          MR. ANDREOLI:   Foundation.

20          (Document marked as Translink  
21          Exhibit No. 3 for identification.)

22          BY MR. NORA:

23          Q.    Would you please examine the portions  
24          of your production that I've had marked

1 Translink Deposition Number 3 and there are  
2 three pages there if you could look at each one  
3 of them.

4 MR. ANDREOLI: Just a minute.

5 MR. NORA: Do you want to take a break?

6 MR. ANDREOLI: It's a minor point.

7 It's more clerical if anything else.

8 (Recess taken.)

9 BY MR. NORA:

10 Q. We've amended Exhibit 3 so that is now  
11 two pages. What are those, sir?

12 A. This is a terminal report. We call it  
13 a MCMTER that we would get from that company we  
14 talked about called Maverick. If we looked up  
15 information, we could look at information about  
16 customers' terminals in their system. It's not  
17 in our system, it's in their system. Their  
18 secure line we could look and see what kind of  
19 terminal somebody had and if it was programmed  
20 say with that tip function I keep referring to.

21 Q. Would each of the two pages in this  
22 deposition exhibit be reports that your company  
23 ran from the processing center?

24 A. Yes.

1 Q. And I'd like to take the pages one at a  
2 time. The first page on top of the exhibit,  
3 what type of report is this?

4 A. This is a terminal report.

5 Q. And did your company run this report?

6 A. Yes.

7 Q. Are you able to tell from that report  
8 when you ran it?

9 A. I do not believe that there is a date  
10 on the report other than the one handwritten.

11 Q. And when this report was run, what  
12 information is found on this report from  
13 Maverick that is relevant to truncation?

14 A. The type of terminal is the most  
15 relevant piece of information that we could  
16 look at.

17 Q. Is there anything else on that report  
18 that would have been relevant to Translink?

19 A. Not on the actual report from Maverick.

20 Q. Now, were these reports run when you  
21 were conducting part of your truncation  
22 notification efforts?

23 MR. SAMORE: Objection, lack of  
24 foundation.



1 BY MR. NORA:

2 Q. I'll change it. Do you know why this  
3 report was run?

4 A. I believe this report was run to try to  
5 help the merchant get their terminal truncated.

6 Q. Would this have been part of a  
7 system-wide effort on customers generally or  
8 would this have been a specific customer  
9 request, if you know?

10 A. I don't know in this case.

11 Q. Can you approximate the time -- other  
12 than the handwritten notes there, is there  
13 anything on the report itself that could  
14 indicate when the report was run?

15 A. No.

16 Q. Now, this report is from your company  
17 records, correct, the company that we have here  
18 today?

19 A. Yes.

20 Q. And could you please tell us what is  
21 noted on the bottom of the report with  
22 handwriting?

23 A. PLS would have been our abbreviation  
24 for please truncate. THX I believe that would

1 be thanks Doug, only last four credit card  
2 numbers to show. It has the date written twice  
3 4/28/06, Friday, 10:55 a.m.

4 Q. And above the top date of 4/28/06, can  
5 you decipher what is written above there?

6 A. I believe it says follow up.

7 Q. And are those initials DP after that?

8 A. Correct.

9 Q. And who would that be, if you know?

10 A. Doug Porch who we referred to earlier.

11 Q. Is Doug the representative who is still  
12 with your company or who has left your company?

13 A. He is the one no longer with our  
14 company.

15 Q. That's how it works. Do you recognize  
16 his handwriting?

17 A. I do not.

18 Q. And when you say you do not recognize  
19 it, you do not know if it is his handwriting or  
20 not?

21 A. I do not know.

22 Q. Can you tell, assuming that these dates  
23 are correct, was 4/28/06 the time you were  
24 conducting any of your general truncation

1        notifications?

2            A.     I believe this is after the written  
3        notification, but it appears to be before we  
4        made our telephone call effort.

5            Q.     Now, the words please truncate, would  
6        these have been instructions to Doug or --

7            A.     No.   Doug would not have the ability to  
8        make the numbers truncate on their terminal.  
9        Doug would have the ability to contact the  
10       processing center and request that they build a  
11       new download and have again the customer call  
12       them or even work it out the other way.   There  
13       were occasions when the processing center would  
14       actually call the customer to help them do that  
15       download.

16           MR. ANDREOLI:   By way of objection,  
17        what's written on the page I believe there  
18        is a lack of foundation for the testimony.

19        BY MR. NORA:

20           Q.     When customers called in for truncation  
21        assistance after that notification in 2006, on  
22        this Hypercom machine we've been discussing  
23        today, would the practice of your customer  
24        representatives have been to give them the

1 number on the card processing center?

2 A. That would have been one of the things  
3 that they would have done.

4 Q. And what else would they have done?

5 A. They would have contacted the  
6 processing center to have them build the  
7 program for this machine in advance of their  
8 call.

9 Q. What type of follow-up would have been  
10 undertaken by Doug on the customer call?

11 A. I don't know what Doug would have done.

12 Q. In preparing for this deposition today,  
13 did you talk to your other customer  
14 representative who handled these requests in  
15 2006?

16 A. Briefly, yes.

17 Q. And when you talked with him, what, if  
18 anything, did he tell you about what was done  
19 in 2006 on these customer services?

20 MR. ANDREOLI: Form.

21 MR. NORA: Pardon?

22 MR. ANDREOLI: Form.

23 BY MR. NORA:

24 Q. Tell me what he told you and what you

1       said to him during your conversation with him  
2       in preparing for your deposition today.

3       A.     I asked him if we still had records of  
4       all the telephone calls that we attempted to  
5       make at that time. He informed me that there  
6       was a checkoff list that he had held onto which  
7       showed all the customers that were contacted  
8       with either a Y or an N next to their name, all  
9       the customers we suspected may have a  
10      truncation issue and he was able to produce  
11      that report for me.

12      Q.     And that would have concerned the time  
13      after this first initial notification went out,  
14      correct?

15      A.     Yes.

16      Q.     Now, this record that you recovered  
17      respecting Bacci Pizzeria 6920 West Ogden, how  
18      is this kept by your company, this specific  
19      record we're looking at?

20      A.     We're a company that has to print the  
21      screen because we cannot make customer service  
22      notes in Maverick's systems, so we print the  
23      information we get on the screen, make  
24      handwritten notes and place it in a manual

1 file.

2 Q. And is that manual file customer  
3 specific?

4 A. Yes.

5 Q. Is this a customer service record for  
6 customer service done for 6920 West Ogden,  
7 Berwyn, Illinois?

8 A. Yes.

9 Q. And it was recovered from the  
10 service -- customer service file for that  
11 business, correct?

12 A. Yes.

13 Q. Now, if you could turn to the page 2,  
14 could you please tell us what this customer  
15 service record shows?

16 A. This appears to be the same MCMTER  
17 which is a terminal report for the same  
18 terminal at Bacci's Pizzeria which is provided  
19 to us by Maverick.

20 Q. And is this a service record for that  
21 terminal at that location?

22 A. It appears to be, yes.

23 Q. And was this also found on the customer  
24 service file for Bacci Pizzeria at 6920 West

1 Ogden?

2 A. Yes.

3 Q. Does this also appear to be notes by  
4 the same service representative?

5 A. It appears to be one or possibly two,  
6 the second penmanship at the top, I'm not sure.

7 Q. When you say there's different --  
8 possibly different penmanship, are you  
9 referring to truncation is complete?

10 A. Yes.

11 Q. Do you -- does that handwriting appear  
12 to be similar to anyone else's at Translink?

13 A. I don't know. I don't know.

14 Q. The signature underneath that notation,  
15 what does that appear to be?

16 A. That appears to be Doug Porch's  
17 signature.

18 Q. And with the date July 14th, '06, or  
19 7/14/06?

20 A. Yes.

21 Q. Now, could you please read what appears  
22 underneath that notation for July 14th?

23 A. Underneath it, it says July 13th, '06,  
24 or 07/13/06. PLS again is the short for please

1 truncate and let me know when done so I could  
2 have them initialized, thanks Doug.

3 Q. Now, who would Doug have directed this  
4 communication to to please truncate?

5 A. This would have been directed to  
6 Maverick or Card Systems. That's the company  
7 that would do the programming for this  
8 terminal.

9 Q. How would he communicate that request  
10 to them?

11 A. He would have sent a separate fax to  
12 them.

13 Q. And would that fax have included the  
14 copy of this note that is in your file?

15 A. Not likely this exact note. It also is  
16 a possibility that this note was written to  
17 somebody else in technical support that may  
18 have -- like Noel who may have been just in  
19 charge of contacting Maverick at that time. I  
20 do not know if Doug would have contacted or  
21 somebody else in my company would have  
22 contacted Maverick or Card Systems that same  
23 company at that time.

24 Q. Now, why would this MagCARD system



1 report have been pulled in the first place?

2 A. Either the business owner contacted us  
3 because he had been notified and wanted to get  
4 it taken care of or somebody in our company may  
5 have contacted them. It could have even been  
6 on another customer service issue and noted  
7 that their terminal may have needed changing at  
8 the time.

9 Q. So all we know from the record is that  
10 for some reason there was a customer service  
11 record made for 6920 West Ogden on this machine  
12 respecting truncation July 13th and July 14th,  
13 2006?

14 MR. ANDREOLI: I'm going to object to  
15 your characterization of --

16 MR. NORA: I'll withdraw the question.

17 BY MR. NORA:

18 Q. Would this service have necessarily  
19 involved some communication with the company at  
20 6920 West Ogden Avenue?

21 A. Would -- I'm not sure I understand the  
22 question. Would the -- which service?

23 Q. I want to make sure I'm not jumping to  
24 a conclusion here. If you have a record

1 showing a customer service effort respecting  
2 truncation on July 13th and 14th, 2006, does  
3 that mean that the people at 6920 West Ogden  
4 knew anything about it?

5 MR. SAMORE: I want to object. He's  
6 already testified that his understanding of  
7 the note was that it was directed to the  
8 credit processing company and not the  
9 customer.

10 BY THE WITNESS:

11 A. I don't believe this note was generated  
12 for the customer, but I believe this report was  
13 generated because of some kind of contact with  
14 the customer.

15 BY MR. NORA:

16 Q. Would it have been possible for you to  
17 provide service like this for a customer on  
18 this machine without contacting the customer?

19 A. Again, I'm not sure. Would it be  
20 possible to provide credit card processing  
21 service?

22 Q. If I own the company at 6920 West Ogden  
23 Avenue using this machine and your company  
24 attempted the type of service that's reported

1 in this report, could you have done all of this  
2 without ever letting anyone at my company know  
3 you were doing this work for me?

4 A. We could not have changed your machine  
5 without letting you know.

6 Q. So the effort recorded in this report  
7 could not have been undertaken without  
8 contacting the company?

9 MR. SAMORE: No, no, I mean that's not  
10 what he testified. He said that the -- I'll  
11 let him answer.

12 MR. NORA: Could you read back my --

13 (Record read as requested.)

14 MR. SAMORE: The only service that he's  
15 described specifically that's referenced in  
16 this document is notifying the credit  
17 processing company to prepare a truncation  
18 program for a download and there is no other  
19 service that's referenced in this document.

20 BY MR. NORA:

21 Q. Let me ask this, the notation here  
22 truncation is complete, how would someone at  
23 your company learn that truncation is complete?

24 A. I can only -- I can't give you a

1       certain answer there, but I could give you my  
2       best estimation. I do not believe anybody  
3       would write that and sign off on it unless they  
4       believed that the program was done at the  
5       processing center and unless they believed that  
6       the small business owner was contacted.

7           Q.     Are these the only two customer service  
8       records kept in the manual file for 6920 West  
9       Ogden Avenue?

10          A.     I don't know the answer to that.

11          Q.     If there were any other customer  
12       service requests from 6920 West Ogden Avenue,  
13       would it have been your custom and practice to  
14       make a report out like this and put it in the  
15       customer service file?

16          A.     Yes. We also have other systems of  
17       customer service within our own system. This  
18       is terminal specific customer service. If  
19       there is a question on a billing statement or  
20       something else, that would go in separate notes  
21       within our own computer system where we could  
22       place notes.

23          Q.     Would all requests for service on the  
24       Hypercom terminal that we've been discussing at

1 6920 West Ogden Avenue have been kept in a  
2 format like this and in the file where you  
3 recovered these reports?

4 A. Not necessarily all of them. Again, if  
5 somebody just called with a question on how to  
6 operate the machine, we may have put that in  
7 our regular notes. This would be a customary  
8 form primarily just for a change in a download  
9 to a terminal. This is a terminal problem  
10 specific customer service technique.

11 Q. Would all requests for services on  
12 truncation in the terminal have generated a  
13 report like this?

14 A. Yes.

15 Q. Are these all the reports in your file  
16 for requests for services on truncation for the  
17 Hypercom terminal at 6920 West Ogden?

18 A. Yes.

19 Q. Are these the only requests for  
20 services that Translink received from 6920 West  
21 Ogden respecting truncation on that terminal?

22 A. I don't know if you asked if they asked  
23 for service.

24 Q. That's good. Are these the only

1 records of any service respecting truncation on  
2 the Hypercom terminal at 6920 West Ogden?

3 A. I believe there was also records of the  
4 build of the download in the file, but this is  
5 the only one regarding a service type help desk  
6 issue on a terminal for that location.

7 Q. If someone had called your company in  
8 October or November of 2007 for assistance in  
9 truncating this Hypercom terminal at 6920 West  
10 Ogden, would there be a report like this in  
11 your files? I'm referring to Deposition  
12 Exhibit Number 3.

13 A. I don't know the answer to that. It  
14 would depend on if we talked to them earlier.  
15 We could contact the processing center. If you  
16 don't mind me elaborating, if they build that  
17 file, they could call us, we could say that  
18 file is already built, so we wouldn't  
19 necessarily generate this again and they could  
20 contact the center and have that done.

21 Q. Before I mark another exhibit, would  
22 you take a look at that?

23 MR. ANDREOLI: Jerry, would you mind if  
24 we went off the record for a minute?

1 (Discussion had off the record.)

2 (Document marked as Translink

3 Exhibit No. 4 for identification.)

4 BY MR. NORA:

5 Q. Mr. Tracy, what is Exhibit Number 4,  
6 Translink Number 4?

7 A. This is a request for a download and a  
8 notice of a completion of a download from Card  
9 Systems which we've also referred to as  
10 Maverick.

11 Q. When was this done?

12 A. I don't know.

13 Q. Would this have -- does this report  
14 reflect the type of activity that would have  
15 been undertaken when the service was commenced  
16 for 6920 West Ogden?

17 A. I don't understand the question, I'm  
18 sorry.

19 Q. What type of service -- is this all for  
20 one download?

21 A. Yes.

22 Q. And what kind of download is it, if you  
23 could tell me?

24 A. A credit card programming download for

1 a restaurant which is named as Bacci Pizzeria  
2 for programming of their machine.

3 Q. And can you tell what type of  
4 programming was undertaken in this download?

5 A. I cannot tell anything specific from  
6 it, no.

7 Q. When service was started for Bacci  
8 Pizzeria, would a download have been necessary  
9 before you could provide service to that  
10 terminal?

11 A. Yes.

12 Q. Would that have required the type of  
13 download that's recorded in this report?

14 A. Yes.

15 Q. Would a report like this have been  
16 typically made when that download was  
17 completed?

18 A. Yes.

19 Q. Is there any reason -- is this the only  
20 download report in your files for Bacci  
21 Pizzeria?

22 A. For this location, yes.

23 Q. For that location?

24 A. Yes.



1 Q. Now, when did your service for Bacci  
2 Pizzeria at this location end, if you know,  
3 offhand?

4 A. I believe it was November of '07.

5 Q. Now, at that time, were you also  
6 providing services at the two other locations  
7 you mentioned in this deposition?

8 A. Yes.

9 Q. Did you continue to provide service at  
10 those two other locations after November 2007?

11 A. No.

12 Q. Did you, yourself, deal with the owners  
13 of Bacci Pizzeria at 6920 West Ogden on  
14 anything during your business history with  
15 them?

16 A. No, I never spoke to them.

17 Q. Did you have a customer representative  
18 who did deal with them?

19 A. Yes.

20 Q. And who was that?

21 A. There could have been many people that  
22 talked to them over time but from customer  
23 service notes I saw that Doug Porch who we  
24 mentioned and Katrina Hansen, H-a-n-s-e-n, had

1 notes in our regular customer service.

2 Q. And who is Katrina?

3 A. She is a former customer service  
4 representative for us.

5 Q. And what type of service did she  
6 provide?

7 A. What you would refer to as traditional  
8 customer service, answering questions about  
9 their statement or their account.

10 Q. She had no technical expertise?

11 A. No.

12 Q. I'm correct when I say she had no  
13 technical expertise?

14 A. I don't believe she did, no.

15 Q. Ed Satala, what is his position in your  
16 company today?

17 A. He's a sales representative.

18 Q. And he is a sales representative who  
19 originally contracted for your company or  
20 handled the -- he was your first sales  
21 representative to this location, correct?

22 A. I don't know if he was the first.

23 Q. Was he the one who negotiated the  
24 contract or agreement?

1 A. Yes.

2 Q. Did he have -- was that his primary  
3 responsibility respecting this store and the  
4 owners of this store?

5 A. Yes.

6 Q. Did he have any ongoing  
7 responsibilities for that store after taking  
8 care of that contract?

9 A. No.

10 Q. The notes that you saw for Katrina  
11 Hansen, are they in the production that your  
12 company has provided to us?

13 A. I don't know.

14 Q. What type of records would her notes  
15 have been found on?

16 A. On the computer.

17 Q. Computerized record?

18 A. Correct.

19 Q. Of her notes?

20 A. Correct.

21 Q. Do you know where Katrina Hansen is  
22 today?

23 A. I do not.

24 Q. Now, during your breaks or else wise,

1 has the name of your contact with the acquiring  
2 bank -- can you think of that?

3 A. Fred Horn, H-o-r-n.

4 Q. And at the processing center, who would  
5 your company's primary contact be at the  
6 processing center?

7 A. My primary contact would be different  
8 than other people's. My primary contact would  
9 be Margie White.

10 Q. What is her position there?

11 A. Operations manager.

12 Q. Can you give us an address from memory  
13 for that company?

14 A. I can't.

15 Q. What city is it in?

16 A. Just outside of Phoenix, Arizona. I  
17 think it would be easy to find.

18 Q. One moment, please. The material that  
19 was not familiar to you before, I'm not sure if  
20 it -- let me show it to your attorney to see if  
21 that's part of your production.

22 When you reviewed the records for this  
23 case on the Bacci restaurants, were you able to  
24 determine or do you otherwise know why they

1 discontinued service with your company?

2 A. No, I do not know why.

3 Q. To your knowledge, did Translink  
4 receive any complaints from them respecting  
5 truncation -- failures to truncate their  
6 Hypercom terminal in 2007?

7 MR. SAMORE: Objection, lack of  
8 foundation.

9 BY MR. NORA:

10 Q. If you have knowledge from any source.

11 A. I don't, no.

12 Q. You have no such information, correct?

13 A. No, I do not.

14 MR. NORA: All right.

15 MR. SAMORE: Could I see Exhibit  
16 Number 2?

17 MR. ANDREOLI: I apologize, just a  
18 thought --

19 MR. NORA: Number 1, we'll strike that.

20 MR. ANDREOLI: Just that portion of it,  
21 what do you want to do with it?

22 MR. NORA: I'm going to limit 1 to the  
23 first three pages because that's all I had  
24 the witness look at. Exhibit Number 1 will

1           just be the first three pages of the packet  
2           I just handed to you.

3                           **EXAMINATION**

4                           by Mr. Samore

5           Q.     Now, Exhibit Number 2 is a complete  
6           copy of the merchants processing application  
7           that was signed by Bacci in May of 2004,  
8           correct?

9           A.     Yes.

10          Q.     And you'll see it appears the second  
11          and third page there is some terms entitled  
12          merchant processing agreement?

13          A.     Yes.

14          Q.     Were those part of the application  
15          form?

16          A.     Yes.

17          Q.     And were they on the back side or is  
18          there a separate page? If you had the original  
19          in front of you, how would that look?

20          A.     If I had the original in front of me,  
21          it would be on the back side, front side, back  
22          side.

23          Q.     So the original application would be  
24          two pages with a front and back?

1           A.     It folds, the original.

2           Q.     And the size of the type print under  
3 the merchant processing agreement is accurate  
4 in terms of the way the original would look, am  
5 I correct about that?

6           A.     It appears to be, yes.

7           Q.     And at the top of the first page of  
8 Exhibit 2, there is the number 693, do you see  
9 that top right?

10          A.     Yes.

11          Q.     Do you know what that refers to?

12          A.     I do.

13          Q.     And what is that?

14          A.     That is a credit score.

15          Q.     Makes sense. And there is also the  
16 words download H something 7PH?

17          A.     T.

18          Q.     What does that refer to, if you know,  
19 or what is your understanding of what that  
20 refers to?

21          A.     My understanding that's the type of  
22 terminal that this location had, the credit  
23 card terminal.

24          Q.     Now, if you look elsewhere at the first

1 page, there is a box that says keyed with  
2 imprint card and then there is a 35 and that's  
3 crossed off and 25 percent, do you see that?

4 A. Yes.

5 Q. What does that refer to as far as your  
6 understanding is concerned?

7 A. When we sign up a customer, we ask them  
8 what percentage of the credit cards they  
9 receive would be swiped actually through the  
10 machine and what percentage they estimate would  
11 be manually entered into the machine because  
12 the credit card would not be present.

13 Q. And printed without an electronic  
14 device, correct?

15 A. It would still be approved through the  
16 electronic device but my understanding here  
17 would be maybe it's pizza delivery where  
18 somebody would give their credit card number  
19 either by telephone or to the deliveryman and  
20 he would be giving it to somebody at the  
21 establishment to enter into the machine.

22 Q. The percentage refers to the number or  
23 the approximate percentage of credit card  
24 receipts that are imprinted as opposed to



1 electronically imprinted; is that correct?

2 MR. NORA: Objection.

3 BY THE WITNESS:

4 A. I believe they both would be printed up  
5 on the printer. The second where it says keyed  
6 with imprint card would be manually pressed  
7 into the machine --

8 BY MR. SAMORE:

9 Q. I see.

10 A. -- because the credit card would not be  
11 handed to somebody that had access to that  
12 machine.

13 Q. Thank you. Now, turn to page -- on  
14 Exhibit 3, do you have that?

15 A. Yes, I do.

16 Q. Now, there is handwritten notes here by  
17 somebody I believe named Doug Porch. Who did  
18 Doug Porch report to?

19 A. Katrina Hansen.

20 Q. And who did Katrina report to?

21 A. David Borosak.

22 Q. And David Borosak reported to who?

23 A. Me.

24 Q. And would it be fair to say that it was

1 not part of your day-to-day responsibilities to  
2 review the handwritten notes of Dave -- or Doug  
3 Porch?

4 A. I did not review handwritten notes.

5 Q. And you have no personal knowledge with  
6 respect to any of the information set forth on  
7 this -- in handwriting on this document,  
8 correct?

9 A. I don't.

10 Q. And would it be fair to say you were  
11 not in regular contact with Doug Porch during  
12 his employment with your firm?

13 A. I saw him on a daily basis, but I did  
14 not have regular contact about customers.

15 Q. That responsibility was with Katrina to  
16 supervise him on a day-to-day basis?

17 A. Correct.

18 Q. Now, you mentioned that Katrina and  
19 others may have prepared typewritten notes that  
20 would go into the regular customer file I think  
21 it was called, I'm probably misstating that,  
22 but there were -- there was another section of  
23 notes that would be typed into the system,  
24 computerized records?

1 A. Yes.

2 Q. And what was that called?

3 A. That was our regular -- I don't know  
4 what I would call it, our regular customer  
5 system within our own company, our regular  
6 customer files.

7 Q. And do you know whether or not a search  
8 was made in response to the subpoena that was  
9 issued in this case for those regular customer  
10 file notes?

11 A. Yes, there was.

12 Q. And I did not see any such notes that  
13 were produced as part of this.

14 A. I don't know if they were requested.

15 MR. SAMORE: Who -- I would ask that --  
16 and I'll do this whatever way works best for  
17 you, but I would ask for a copy of the  
18 customer notes that were typed in because  
19 there is nothing here in any of the records  
20 that I've seen.

21 MR. ANDREOLI: It may be the case that  
22 any notes that exist weren't responsive to  
23 the subpoena.

24 MR. NORA: The subpoena might have been

1 too narrow.

2 MR. SAMORE: I'm just making that  
3 request and I'll be happy to follow up with  
4 a letter or an additional subpoena or what  
5 have you, but I'd just like to see the  
6 actual notes, okay, just stating that for  
7 the record here today.

8 MR. ANDREOLI: Fair enough.

9 BY MR. SAMORE:

10 Q. So now --

11 MR. NORA: And I want a copy of  
12 everything, of course.

13 MR. ANDREOLI: That I can't agree to.

14 That's a joke.

15 BY MR. SAMORE:

16 Q. Do you have any idea what prompted Doug  
17 Porch to write the notes set forth on this  
18 Exhibit Number 3?

19 A. I don't and I don't know honestly that  
20 they're Doug's notes.

21 Q. And actually the date that's shown here  
22 4/28/06 is not the -- is prior to the time in  
23 which your company had this program of  
24 notifying customers of the truncation law

1 requirements?

2 MR. NORA: Objection, I think you want  
3 to clarify which program.

4 BY THE WITNESS:

5 A. It's post our written notification on  
6 the statements but pre our call notification.

7 BY MR. SAMORE:

8 Q. Are you aware of any program or  
9 instruction to employees such as Doug Porch  
10 with respect to notifying by phone or voice of  
11 customers' truncation requirements in April of  
12 2006?

13 A. I'm not aware of any.

14 Q. So in terms of what actually prompted  
15 the handwriting here, you have no personal  
16 knowledge?

17 A. I don't.

18 Q. And you would not know what Doug said  
19 to the customer or what the customer said to  
20 Doug?

21 A. I would not.

22 Q. And you also said that there was  
23 another report that was generated that showed a  
24 list of customers that were contacted pursuant

1 to the oral notification program regarding  
2 advising companies of the truncation  
3 requirements; is that right?

4 A. Yes, I did.

5 Q. And is that list available by any  
6 chance and would that be -- could that be  
7 produced or not or would there be large -- I  
8 mean did you see that in preparation of your  
9 deposition today, for example?

10 A. Yes, I did see it in preparation.

11 MR. SAMORE: Could we see a copy of  
12 that? Do you want to think about it a  
13 little bit before committing?

14 MR. ANDREOLI: I think our purpose here  
15 is to get all of the appropriate information  
16 to both sides so that parties of litigation  
17 have all the facts. That being said, I  
18 haven't seen the list. I would like to take  
19 a look at it before I make a decision.

20 MR. SAMORE: Fair enough.

21 BY MR. SAMORE:

22 Q. Now, was Doug Porch -- can you describe  
23 what terms he left on, left the company on?

24 A. He was laid off.

1           Q.    Was it -- it was unrelated to his job  
2           performance?

3           A.    No, it was not related to his job  
4           performance.

5           Q.    And what about Katrina, what was the  
6           terms of her severance?

7           A.    She was laid off as well.

8           Q.    Now, if we go to exhibit -- the second  
9           page of Exhibit Number 3, again, you have no  
10          personal knowledge with respect to any of the  
11          communications that gave rise to these  
12          handwritten notes, correct?

13          A.    I do not.

14          Q.    And the note truncation is complete, on  
15          this page, isn't it entirely possible  
16          they're -- that that note is simply referring  
17          to the fact that the credit processing company  
18          has prepared a program for download?

19               MR. NORA:  Objection to speculation.

20               Go ahead.

21               BY THE WITNESS:

22               A.    It is possible that that's the only  
23               reason it's there.

24

1 BY MR. SAMORE:

2 Q. And there is a fax number -- a date at  
3 the bottom of this exhibit says July 13, 10:28.  
4 Do you know how that fax date came to appear on  
5 this exhibit?

6 A. I don't.

7 Q. Doesn't that suggest that this was  
8 actually a document that was faxed to your  
9 company as opposed to the other way around?

10 A. I would assume so, yes.

11 Q. So would it at least be possible that  
12 this document was faxed to Doug or to your  
13 company by the credit card processing company?

14 MR. NORA: Objection to speculation.

15 Go ahead.

16 BY THE WITNESS:

17 A. It is possible.

18 BY MR. SAMORE:

19 Q. In terms of who Doug actually spoke to  
20 before he wrote the phrase truncation is  
21 complete, you have no personal knowledge of,  
22 correct?

23 A. No, I do not.

24 Q. And as I --



1 MR. ANDREOLI: Before you ask the  
2 question, Counsel, can I take a break?

3 (Discussion had off the record.)

4 BY MR. SAMORE:

5 Q. As I understand it, with respect to the  
6 companies that you -- or strike that.

7 With respect to the customers that your  
8 company identified being at risk of not having  
9 compliance with the truncation requirements,  
10 your policy and practice was to notify Maverick  
11 or the credit card processing company of the  
12 need to prepare a download; is that correct?

13 A. On certain types of terminals, yes.

14 Q. And was it the practice and policy of  
15 your company to receive notification from the  
16 credit processing company when the program had  
17 been prepared for download?

18 A. Yes.

19 Q. And then at the bottom, you'll see that  
20 just above Doug's name is the word initialized,  
21 what is your understanding of that word in this  
22 context?

23 A. We use the term initialize to run a  
24 test transaction to make sure the program --

1       when I say them, I mean the customer or small  
2       business owner, to test a transaction through  
3       their terminal and make sure that the program  
4       has been complete.

5           Q.     If we turn to Exhibit Number 4, at the  
6       top of Exhibit Number 4, there appears to be a  
7       fax number that is cut off that could be due to  
8       copying or what have you, would you agree with  
9       that statement?

10          A.     It appears that there is something that  
11       looks like it's from a fax.

12          Q.     This document was contained in what  
13       file at your company?

14          A.     In the Bacchi Pizzeria file.

15          Q.     The same -- is that a different file  
16       than what was used for Exhibit Number 3?

17          A.     I don't know which file this came out  
18       of. We had three files, one for each location,  
19       from Bacchi. This would be the merchant number  
20       that matches the one at 6920.

21          Q.     So there would just be one hard copy  
22       file for each merchant that you had a business  
23       relationship with; is that correct?

24          A.     Yes.

1           Q.     So Exhibits 3 and 4, if things were  
2     working properly in the file, they would have  
3     been set forth in the same hard copy location?

4           A.     Yes.

5           Q.     And this appears to be a request to  
6     the -- to Card Systems to prepare a download  
7     program for truncation for Bacci Pizzeria,  
8     correct?

9           A.     It appears to be a download request.  
10    It does not specifically say it's for the  
11    truncation.

12          Q.     And you have no idea when this request  
13    was made --

14          A.     I do not.

15          Q.     -- from reviewing this?

16                 Would it be possible to search again  
17    for the -- through the original file to see if  
18    there is a clean copy of the -- with the fax  
19    number at the top of the page?

20          A.     It's possible to search.

21          Q.     Could you please ask somebody to do  
22    that and I'll confirm in a letter to your  
23    lawyer my request, okay?

24          A.     That's fine.

1           Q.    Can you describe your understanding of  
2           the second page of Exhibit Number 4?

3           A.    This appears to be a request to build a  
4           download by Card Systems or Maverick as we keep  
5           referring to them to create a program that  
6           contains a tip function and no auto batch  
7           meaning they were going to batch out the  
8           terminal themselves each evening.

9           Q.    Do you recognize the handwriting on  
10           that page?

11          A.    I don't but the smiley face I think  
12           I've seen Katrina use before.

13          Q.    Has a feminine touch to it, right?

14          A.    Yes.

15          Q.    Now, am I correct that your company  
16           does not know the identities, the name,  
17           address, phone number of any of the customers  
18           of Bacci Pizzeria that entered into credit card  
19           transactions?

20          A.    That is correct.

21          Q.    And am I correct also that you -- your  
22           company would have no way of obtaining the  
23           identities of any of the customers of Bacci  
24           Pizzeria that entered into credit card

1 transactions with it?

2 A. I don't know the answer to that. It  
3 may be possible through some kind of Visa or  
4 MasterCard request, but I am not aware of a  
5 current way for us to get them.

6 Q. And now, am I correct that Bacci  
7 Pizzeria does not have any -- does not have  
8 access to the identities of any of its  
9 customers that purchased food through a credit  
10 card and by identities I mean name -- strike  
11 that. I ruined the question. I'll start over  
12 again.

13 Am I correct that Bacci does not have  
14 access to the address information and phone  
15 number information for any of its customers  
16 that purchased food in a credit card  
17 transaction to the best of your knowledge?

18 MR. NORA: Objection, speculation,  
19 someone else's knowledge.

20 BY THE WITNESS:

21 A. Yeah, I don't know.

22 BY MR. SAMORE:

23 Q. At least with respect -- for purposes  
24 of -- in a typical credit card transaction

1       though, at least there is nothing in that  
2       process that would disclose the customer's  
3       address and phone number to the merchant,  
4       correct?

5               MR. ANDREOLI: I'm going to object to  
6       the form.

7               MR. NORA: And I join.

8       BY THE WITNESS:

9       A.     No, there is nothing to give them an  
10      address or phone number from using their credit  
11      card.

12      BY MR. SAMORE:

13      Q.     And now with respect to the written  
14      notification of the truncation change in law,  
15      you testified that occurred in early 2005,  
16      correct?

17      A.     Yes.

18      Q.     Now, you also testified that you didn't  
19      have any written records relating to the actual  
20      notice to -- that was provided to the merchants  
21      at that time, correct?

22      A.     That's correct.

23      Q.     Does your company have any kind of  
24      template or internal record that would show

1 exactly what notice was provided at that time?

2 A. No.

3 Q. And am I correct also that it's been  
4 more than three years since you saw that  
5 notification?

6 A. Yes.

7 Q. And so your recollection with respect  
8 to what the content of that notification was  
9 could be erroneous?

10 A. It was my best guess.

11 Q. And am I also correct that you -- you  
12 did not play a dominant role in the drafting of  
13 that notice?

14 A. I would have looked at it.

15 Q. You would have looked at it but in  
16 terms of actually writing the words that were  
17 used for that notification, you did not play a  
18 role in that, correct?

19 A. I did not.

20 Q. Who is the person that was primarily  
21 responsible for drafting that notification  
22 other than Tom?

23 A. I would guess that that would have been  
24 David Borosak.

1 Q. And David Borosak is still with the  
2 company?

3 A. Yes.

4 Q. And so as you sit here today, there is  
5 absolutely no way of actually obtaining a hard  
6 copy of the words that were used in that  
7 notification?

8 MR. ANDREOLI: Form.

9 BY MR. SAMORE:

10 Q. There is no way that you could think of  
11 at least as you sit here today through which  
12 you could see a copy of the words that were  
13 used to notify merchants of the change in law?

14 A. We made every attempt to get a copy by  
15 even calling customers we thought might have  
16 old statements before and we were not able to  
17 obtain one.

18 Q. Do you have any written records  
19 indicating that this notification was actually  
20 put in the U.S. mail to Bacci Pizzeria?

21 A. I do not.

22 MR. SAMORE: That's all I have. Thank  
23 you.  
24



**FURTHER EXAMINATION**

by Mr. Nora

Q. I'm sorry to do this to you, I have a few more. When you sent out those notifications in early 2005, my understanding is that you sent one for each billing address; is that correct?

A. That's correct.

Q. For the Bacci Pizzeria owners, would they have received three billing statements in early 2005 when that notification went out?

MR. SAMORE: Objection. He's asking about receiving, assumption.

BY MR. NORA:

Q. I'm sorry, would you have sent three different billing statements to the owners of Bacci Pizzeria for each billing statement in 2005?

A. I believe I mentioned this before, I don't know in early 2005 if they used one billing address or three, but whatever addresses we had on file we would have sent the statement to with that information.

Q. Now, they had three locations at that

1 time that you serviced, correct?

2 A. Yes.

3 Q. When you sent the billing statements  
4 for these three different locations whether it  
5 was sent to one address or to three addresses,  
6 would you have sent three different pieces of  
7 mail?

8 A. Yes.

9 Q. And each of those pieces of mail would  
10 have contained this notification, correct?

11 A. Yes.

12 Q. And those three pieces of mail would  
13 have gone to whichever addresses the owners of  
14 6920 West Ogden Avenue instructed you to send  
15 them to, correct?

16 A. Yes.

17 Q. Now, counsel -- Mr. Samore asked you  
18 some questions about your recollections of that  
19 notification, did that notification in early  
20 2005 go to all of your customers?

21 A. I don't know.

22 Q. Was it intended to go out to all of  
23 your customers?

24 A. Yes.

1 Q. Approximately how many customers did  
2 you have in early 2005?

3 A. A round number would be 5,000.

4 Q. Now, at the time this notification was  
5 sent out, was it the intention of Translink to  
6 accurately notify your customers of the legal  
7 requirements respecting truncation customer  
8 credit card receipts?

9 MR. ANDREOLI: Just a minute, Counsel.

10 Go ahead.

11 BY THE WITNESS:

12 A. The answer would be yes.

13 BY MR. NORA:

14 Q. And notwithstanding the fact that you  
15 do not recall exactly what was in that  
16 notification, can you tell us have you received  
17 any complaints or other reports since then that  
18 the notification you sent out in 2005 was  
19 inaccurate or incomplete?

20 A. No.

21 Q. You have not received such reports or  
22 complaints, have you?

23 A. No.

24 Q. Meaning I am correct?

1           A.     I have not received any complaints from  
2           any other customers.

3           Q.     Now, on the Exhibit 3 on that second  
4           page where we looked at the notifications  
5           about -- so I could have them initialized, is  
6           my understanding correct that Doug Porch there  
7           appears to have recorded an intention to call  
8           the owners of Bacci Pizzeria at 6920?

9           A.     I don't know his intention.

10          Q.     The notation have them initialized  
11          would have meant having the customer do  
12          something with the Hypercom terminal at  
13          6920 West Ogden?

14          A.     We would have used the term initialized  
15          to run what we call a test transaction to make  
16          sure the terminal was working at 6920 properly.

17          Q.     And that would have required someone at  
18          6920 West Ogden doing something with the  
19          Hypercom terminal?

20          A.     Yes.

21          Q.     Thank you. We noted on that one piece  
22          of paper that there might be a missing fax  
23          number, otherwise, all the documents that you  
24          looked at in the exhibits today are true and

1 accurate copies of your business records, am I  
2 correct?

3 A. Yes.

4 Q. And they are kept in the normal course  
5 of business by Translink?

6 A. Yes.

7 Q. And you have custody and control over  
8 those records, correct?

9 A. Yes.

10 Q. And also your answer -- you have  
11 custody and control of the other records that  
12 have been produced pursuant to subpoena in this  
13 case, correct?

14 A. Yes.

15 Q. And those are -- those are kept in the  
16 normal course of business, correct?

17 A. The secondary big file is not kept in  
18 the normal course.

19 Q. That was specially run?

20 A. That was specially created for this.

21 Q. And how is that created?

22 A. I had to have three employees spend  
23 about a week running individual day reports for  
24 this location by accessing them through

1       Maverick's computer system.

2           Q.     So those were obtained from Maverick --  
3       from Maverick's business records, correct?

4           A.     From their system. We have access  
5       within our office.

6           Q.     So those are from records that your  
7       business has routine access to when you need  
8       it, correct?

9           A.     Yes.

10          Q.     And to your knowledge, they're kept in  
11       the normal course of business by Maverick,  
12       correct?

13          A.     Yes.

14               MR. NORA: That's all. Thanks.

15                   **FURTHER EXAMINATION**

16                   by Mr. Samore

17          Q.     I appreciate all the time and effort  
18       you put into this. If you go to the second  
19       page of Exhibit Number 2, if you look at the  
20       signature at the bottom, it says Doug and then  
21       under truncation is complete, would you agree  
22       with me -- look at the signature at the bottom  
23       Doug versus the signature below truncation is  
24       complete, would you agree that handwriting

1 looks different, one appears to -- the top one  
2 appears to be -- certainly includes a number of  
3 letters above and beyond Doug?

4 MR. NORA: Objection, speculation,  
5 foundation, et cetera, but go ahead.

6 BY THE WITNESS:

7 A. Yeah, I don't know people's signatures.  
8 I don't know if that's two different people.

9 BY MR. SAMORE:

10 Q. So as you sit here today, would it be  
11 fair to say you do not know whether the  
12 statement truncation is complete was written by  
13 Doug or by somebody else?

14 A. I do not know.

15 Q. And isn't it at least very possible  
16 that -- is it possible that the phrase  
17 truncation is complete was written by an  
18 employee with the credit card processing  
19 company and faxed to your company?

20 A. It's a possibility.

21 Q. And if it was written by someone  
22 outside of your company, in particular by the  
23 credit processing company, then that phrase  
24 could simply mean that the download had been

1 prepared?

2 A. Correct.

3 MR. SAMORE: Thank you very much.

4 MR. NORA: For the record, we were just  
5 talking about Exhibit Number 3.

6 MR. ANDREOLI: One minute with Jim and  
7 then we could switch off.

8 (Recess taken.)

9 **EXAMINATION**

10 by Mr. Andreoli

11 Q. Jim, you remember counsel Mr. Nora  
12 asked you about Katrina Hansen, yes?

13 A. Yes.

14 Q. And, in particular, he asked you  
15 whether she had any technical expertise, do you  
16 remember that?

17 A. Yes.

18 Q. And you answered no, correct?

19 A. Yes.

20 Q. When you answered no, it's my  
21 understanding that you meant she had no  
22 technical expertise as to the particular  
23 terminals we've been discussing here and, in  
24 particular, programming these terminals, that



1 is correct, right?

2 A. Yes.

3 Q. She had other technical expertise in  
4 her job, correct?

5 A. She did.

6 MR. ANDREOLI: Thank you.

7 **FURTHER EXAMINATION**

8 by Mr. Nora

9 Q. Why don't you tell us what that  
10 technical expertise was?

11 A. She worked for us for ten years and  
12 helped customers with a broad range of things,  
13 just not specific to the programming of their  
14 terminals.

15 Q. So she could -- she was a generalist in  
16 the company?

17 A. She could help them with just about  
18 everything else other than the programming of  
19 the machine.

20 MR. NORA: Thank you very much.

21 MR. SAMORE: Thank you very much.

22 MR. ANDREOLI: We'll reserve.

23 (Witness excused.)

24 FURTHER DEPONENT SAITH NOT

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

CHRISTOPHER D. SHURLAND, )  
individually and as the )  
representative of a class of )  
similarly-situated persons, )  
Plaintiffs, )

vs. )

No. 08 CH 10786

BACCI CAFE` & PIZZERIA ON )  
OGDEN, INC., and DOES 1-10, )  
Defendants. )

I, JAMES TRACY, being first duly sworn,  
on oath say that I am the deponent in the  
aforesaid deposition taken on December 10,  
2008; that I have read the foregoing transcript  
of my deposition, consisting of pages 1 through  
97 inclusive, and affix my signature to same.

\_\_\_\_\_ as it now appears

\_\_\_\_\_ as it now appears with corrections

\_\_\_\_\_  
JAMES TRACY

SUBSCRIBED AND SWORN TO  
before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF C O O K )

I, MICHELE J. LOSURDO, a notary public within and for the County of DuPage and State of Illinois, do hereby certify that heretofore, to-wit, on the 10th day of December, A.D., 2008, personally appeared before me at 233 South Wacker Drive, Suite 7800, in the City of Chicago, County of Cook, and State of Illinois, JAMES TRACY, a witness, called by the Plaintiffs in a certain cause now pending and undetermined in the Circuit Court of Cook County, Illinois, wherein CHRISTOPHER D. SHURLAND, et al., are the plaintiffs and BACCI CAFE` & PIZZERIA ON OGDEN, INC., et al., are the defendants.

I further certify that the said witness, JAMES TRACY, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to writing by means of shorthand in the presence of said witness and afterwards transcribed upon a computer, and the foregoing

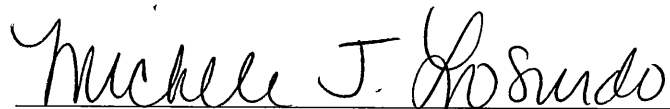
1 is a true and correct transcript of the  
2 testimony so given by him as aforesaid.

3 I further certify that the reading and  
4 signing of said deposition was reserved by the  
5 witness.

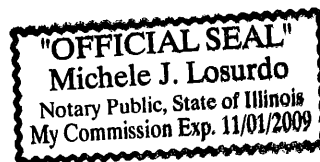
6 I further certify that the taking of  
7 the deposition was pursuant to notice, and that  
8 there were present at the taking of the  
9 deposition the aforementioned parties.

10 I further certify that I am not counsel  
11 for nor in any way related to any of the  
12 parties to this suit, nor am I in any way  
13 interested in the outcome thereof.

14 In testimony whereof, I have hereunto  
15 set my hand and affixed my notarial seal this  
16 29th day of December, A.D., 2008.

17  
18 

19 Michele J. Losurdo, CSR  
20 Notary Public, DuPage County, IL  
21 Illinois License No. 084-004285





- ☒ New Account  
☐ Additional Location

# MERCHANT PROCESSING APPLICATION

MID # Existing Location

Contractor CORP # \_\_\_\_\_

Rep. Name ED SATALA

Rep # 1050 Rep SS # \_\_\_\_\_

WHEN COMPLETED DELIVER TO: One Tower Lane, Suite 1900  
Oakbrook Terrace, IL 60181

## BUSINESS LOCATION

Business/Corporate Name	Statement Mailing Address (If different from location address)
DBA (Doing Business As) Name <u>BACCI PIZZERIA</u>	City, State, Zip
Location/Site Address <u>6920 W. Ogden AVE</u>	Federal Tax ID Number <u>342566876</u>
City, State, Zip <u>Berwyn, IL 60402</u>	Telephone Number <u>(708) 788-1700</u>
E-mail Address	Hours of Operation <u>12 HRS 8/day</u>

☒ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☐ Not for Profit

How long has present business? 6 yrs  
 Do you currently accept credit cards? ☐ Yes ☒ No  
 Has business or associate principal been previously terminated as a Visa/MC merchant? ☐ Yes ☒ No

MERCHANDISE/SERVICE SOLD <u>PIZZA REST</u>	MONTHLY BANK CARD LIMIT <u>\$ 8000 -</u>	AVERAGE TICKET AMOUNT <u>\$ 10 - 30</u>	HIGHEST TICKET AMOUNT <u>\$ 100 -</u>
---	---	--	--

PERCENT OF BUSINESS (MUST = 100%)			SALE METHOD (MUST = 100%)		
CARD SWIPE <u>75</u> %	KEYED WITH IMPRINT CARD <u>25</u> %	KEYED WITHOUT IMPRINT CARD %	STORE FRONT <u>75</u> %	OFF PREMISE <u>25</u> %	MAIL/PHONE ORDER %
TRADE SHOW %	INTERNET %	OTHER %			

## Equipment/Software Information

Terminal/Software: HT7P  
 Serial Number:  
 Printer  
 Serial No:  
 PIN Pad:  
 Dial Access Code: ☐ 9 ☐ 8 ☐ Call Waiting ☐ Other \_\_\_\_\_

## OWNERS OFFICERS INFORMATION (MUST REFLECT 50% OR MORE OWNERSHIP)

Name (Print) <u>CHIARA L. DI DIANA</u>	Title <u>OWNER</u>	Residence Address <u>10510 Ridgewood Dr</u>	City, State, Zip <u>Floss Park, IL 60401</u>
Social Security Number <u>342-56-6876</u>	Telephone Number <u>708-671-9984</u>	% Equity Ownership <u>100</u>	DRIVER'S LICENSE #
Name (Print) <u>CHIARA L. DI DIANA</u>	Title <u>OWNER</u>	Residence Address	City, State, Zip
Social Security Number	Telephone Number	% Equity Ownership	DRIVER'S LICENSE #

## TRADE REFERENCES (PLEASE COMPLETE SECTION IN FULL)

Name <u>Giles</u>	Name <u>B+B</u>	1. Amex
Address	Address	2. Discover
City, State, Zip	City, State, Zip	3. Diners
Contact	Contact	4. Other
Phone <u>630-668-1000</u>	Phone <u>708-652-6023</u>	

**EXHIBIT**

Translink #2  
12/10/08 MYS

## MERCHANT SITE SURVEY (TO BE COMPLETED BY SALES REPRESENTATIVE)

Merchant Location <input type="checkbox"/> Store Front <input type="checkbox"/> Office Building <input type="checkbox"/> Warehouse <input type="checkbox"/> Residence <input type="checkbox"/> Other _____	Landlord Name	Landlord Telephone #
<input type="checkbox"/> Owns <input type="checkbox"/> Leases the business premises		
Yes <input type="checkbox"/> No <input type="checkbox"/> Merchant appears to be conducting business as represented in this application.	Yes <input type="checkbox"/> No <input type="checkbox"/> Have you taken pictures inside and outside of the premise?	
Yes <input type="checkbox"/> No <input type="checkbox"/> Merchant is adequately staffed and stocked to do business.	Yes <input type="checkbox"/> No <input type="checkbox"/> Have you confirmed the identity of the person who signed the contract?	
Complete if MOTO, Internet or Future Services		
1) How does the customer order the product?	<input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> Internet <input type="checkbox"/> Other _____	
2) Are consumers required to provide a deposit?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3) Delivery Time Frame:	<input type="checkbox"/> 0-7 days <input type="checkbox"/> 8-14 days <input type="checkbox"/> 15-30 days <input type="checkbox"/> More than 30 days	
4) Refund Policy		

I hereby verify that I have physically inspected the business premises of the merchant at this address and the information stated above is correct to the best of my knowledge.

Inspected by (Print Name)	Signature	Date
---------------------------	-----------	------



Chiara L. Didiana  
Vincent Didiana  
10510 Ridgewood Dr.  
Palos Park, IL 60464

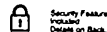
1096  
70-936/719

MERCHANT hereby authorizes it  
to remain in full force and effect  
arisen under this Agreement have

PAY to  
the ORDER of

STANDARD BANK  
AND TRUST CO.

20  
DOLLARS



in the same. The authority is  
MERCHANT to BANK that have

account title.

for

⑆071909363⑆ 460577100⑈ 1096

TM & © Warner Bros.

## PRICING SCHEDULE

Discount Visa	1.62	%	ACH Rejection	\$25.00	On-line Access	\$ 6.00
Discount MasterCard	1.62	%	Basic Service Fee	\$10.00	Retrieval Fee	\$12.50
Transaction/ACH Fee	Retail	MOTO	Charge Back Fee	\$30.00	Semi-Annual Fee	\$52.50
MasterCard	\$25	\$30	Checking Acct. Change	\$20.00	Voice Auth. Setup	\$25.00
Visa	\$25	\$30	Imprinter Fee	\$30.00	Voice Authorization	\$ .95
Other	\$30	\$30	Merchant Club	\$ 7.95	Wireless Fee	\$25.00
			Minimum Discount Fee	\$25.00		

RESTAURANT W/TIPS ☐

OTHER W/TIPS ☐

RETAIL ☐

MOTO/INTERNET ☐

## MERCHANT ACCEPTANCE

By signing below, I represent that the information I have provided on the Application is complete and accurate and that I have the requisite authority to sign on behalf of the Merchant. The Merchant has read and agrees to be bound by the terms and conditions of the Merchant Processing Agreement. The Merchant authorizes the BANK or any credit reporting company agency utilized by the BANK or any agent of the BANK to make whatever inquiries the bank deems appropriate to investigate, verify or research references, statements or data obtained from Merchant for the purpose of this Application. The Merchant agrees that the BANK may accept and act in reliance upon a copy or facsimile of this application bearing signatures and that any such copy or facsimile shall be deemed and treated for all purposes as an original of the Application as bearing their original signatures.

AGREED AND ACCEPTED

Print Business Name:

BACCI PIZZERIA



CHIARA L. DIDIANA

(Signature)

(Printed Name)

5-11-04

Date

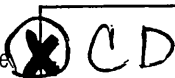
Its

## DISCOVER ACCEPTANCE

1.73%

Discount Rate

Initial box for Discover Card Acceptance



\$25 Membership Fee (Charged directly by Discover)

Discover will charge a Transaction Fee of \$.10 on all Discover Transactions

PERSONAL GUARANTY: FOR VALUE RECEIVED, and in consideration of the mutual undertaking contained in the MERCHANT PROCESSING AGREEMENT (the "Agreement") by and between the Merchant and PROVIDENT BANK ("Bank") the undersigned jointly and severally if more than one, unconditionally guarantees to the BANK and its successors and assigns the full prompt payment when due of all of the obligations of every kind and nature of MERCHANT arising directly or indirectly out of the agreement or any document executed and delivered by the MERCHANT in accordance with the terms of the Agreement. The undersigned further agrees to pay the BANK all expenses (including attorney fees and court costs) paid or incurred by the BANK in collecting such obligations and enforcing this Guaranty.



CHIARA L. DIDIANA

(Signature)

(Printed Name)

5-11-04

Date

By: X

(Signature)

Date

(Printed Name)

FOR BANK USE ONLY

Application Approved by:

Signature

Title

Date

Program: MCMTER

MAVERICK's MagCARD System  
Terminal File Maintenance

Terminal Id:8122486901

Name: [REDACTED]

Addr1:6920 W. OGDEN AVENUE

Addr2:

City :BERWYN

State:IL

Zip :60402

Phone:(708)788-1700

Comments:#224869016

SIC Code:5812 EATING PL Upd/1st Prefix Phone

N

18005104346

N

18005106811

Tymnt:

Vnet :K0.433551812248690101

Bnet :

Amex :

Disc :

JCB :

Priv :

18005104346

18005106811

0

0

Y

0

0

Y

0

0

Y

0

0

Y

0

0

Y

0

0

Y

Mer: Amex: 0 Disc:601101326394911 T&amp;E:

Amex PIP : 0 Priv: 0

0 JCB: 0  
TeleCrdt: 0

Option :\_\_

Current Mode: Inquire

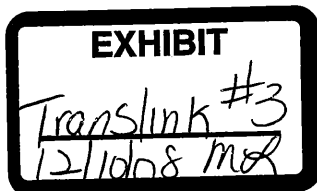
4

forced PP 4/28/06

on 1/28/06 in 10:55 AM

PIS TRUNCATE

THUR DOW

Only Last 4 credit card  
to show



Program: MCMTERR  
 MAVERICK's MagCARD System  
 Terminal File Maintenance  
 Terminal Id: 8122486901  
 Name: BACCI PIZZERIA  
 Addr1: 6920 W. OGDEN AVENUE  
 Addr2:  
 City: BERWYN State: IL  
 Zip: 60402 Phone: (708) 788-1700  
 Comments: #224869016  
 SIC Code: 5812 EATING PL  
 Mer Id: 810002024869 81 MRB-TANLK  
 Mer Name: BACCI PIZZERIA  
 Valid Activity: Unlocked Track: 2  
 Terminal Type: T7P HYPERCOM T7P TERMINAL  
 Program Code: HKR HYPERCOM VISAK REST.  
 Printer Type: NO PRINTER ATTACHED  
 CDPD Modem: None Baud: 1200  
 SIC Code: 5812 EATING PL Upd/1st Prefix Phone 2nd Prefix Phone PreDial  
 N 18005104346 N 18005106811  
 Tmmt: 0 0 Y  
 Vnet: K0.433551812248690101 18005104346 18005106811 Y  
 Bnet: 0 0 Y  
 Amex: 0 0 Y  
 Disc: 0 0 Y  
 JCB: 0 0 Y  
 Priv: 0 0 Y  
 Mer: Amex: 0 Disc: 601101326394911 T&E: 0 JCB: 0  
 Amex PIP: 0 Priv: 0 TeleCrdt: 0  
 Option: \_\_\_\_\_  
 Current Mode: Inquire

Truncation is complete  
 Don [Signature] 7-14-06

07/13/06

PIS Truncate &

let me know when  
 done so I can have  
 them initialized  
 this day

TO: David

FAX: 630-574-0965

512

**CARDSYSTEMS**  
**HYPERCOM DOWNLOAD NOTICE**

MERCHANT NAME Bacci Pizzeria

MERCHANT NUMBER 810002024869

HYPERCOM TERMINAL NUMBER 224869016

APPLICATION: RESTAURANT RETAIL

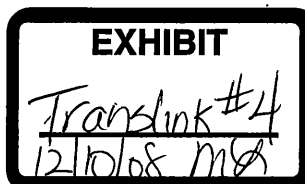
AUTOCLOSE TIME \_\_\_\_\_

INIT TELEPHONE NUMBER 18886963376

NMS TELEPHONE NUMBER 18886963376

If you have any questions or problems, please call 1-888-999-6477.

708 343 2600



5

Program: MCMTER

MAVERICK's MagCARD System  
Terminal File Maintenance

Terminal Id:8122486901

Mer Id : 810002024869 81 PROV-TRNLK

Name :BACCI PIZZERIA

Mer Name:BACCI PIZZERIA

Addr1:6920 W. OGDEN AVENUE

Valid Activity: Unlocked Track:2

Addr2:

Terminal Type :T7P HYPERCOM T7P TERMINAL

City :BERWYN

State:IL

Program Code :HKR HYPERCOM VISAK REST.

Zip :60402

Phone:(708)788-1700

Printer Type : NO PRINTER ATTACHED

Comments:

CDPD Modem : None

Baud:1200

SIC Code:5812 EATING PL Upd/1st Prefix Phone 2nd Prefix Phone PreDial

N

18005104346

N

18005106811

Tymnt:

0

0

Y

Vnet :K0.433551812248690101

18005104346

18005106811

Y

Bnet :

0

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Y

Amex :

0

0

Y

Disc :

0

0

Y

JCB :

0

0

Y

Priv :

0

0

Y

Mer: Amex:

0

Disc:

0

T&amp;E:

0

JCB:

0

Amex PIP :

0

Priv:

0

TeleCrdt:

0

Option :

Current Mode: Add

TERMINAL RECORD ADDED TO DATA BASE

Please  
build  
w/ Tips, no autobatch

thanks!!  
😊



☒ New Account  
☐ Additional Location

# MERCHANT PROCESSING APPLICATION



WHEN COMPLETED DELIVER TO: One Tower Lane, Suite 1900  
 Oakbrook Terrace, IL 60181

Contractor CORP # \_\_\_\_\_  
 Rep. Name ED SATARA  
 Rep # 1050 Rep SS # \_\_\_\_\_

## BUSINESS LOCATION

Business/Corporate Name		Statement Mailing Address (if different from location address)	
BA (Doing Business As) Name <u>BACCI PIZZERIA</u>		City, State, Zip	
Location/Site Address <u>6920 W. Ogden AVE</u>		Federal Tax ID Number <u>342566876</u>	
City, State, Zip <u>Berwyn, IL 60402</u>	E-mail Address	Telephone Number <u>(708) 788-1700</u>	Hours of Operation <u>12 HRS / day</u>

☒ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ LLC ☐ Not for Profit

How long has business been present? 6 yrs  
 Do you currently accept credit cards? ☒ Yes ☒ No  
 Has business or associate principal been previously terminated as a Visa/MC merchant? ☒ Yes ☒ No

Merchandise/Service Sold <u>Pizza Rest</u>	Monthly Bank Card Limit <u>\$ 8000 -</u>	Average Ticket Amount <u>\$ 10 - 30</u>	Highest Ticket Amount <u>\$ 100 -</u>
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PERCENT OF BUSINESS (MUST = 100%)			SALE METHOD (MUST = 100%)		
Card Swiped <u>75</u> %	Keyed with Imprint Card <u>25</u> %	Keyed without Imprint Card %	Store Front <u>75</u> %	Off Premise <u>25</u> %	Mail/Phone Order %
Trade Show %	Internet %	Other %			

## Equipment/Software Information

Terminal/Software: HT7P  
 Serial Number:  
 Printer:  
 Serial No:  
 PIN Pad:  
 Dial Access Code: ☐ 9 ☐ 8 ☐ Call Waiting ☐ Other \_\_\_\_\_

## OWNERSHIP INFORMATION (MUST REFLECT 50% OR MORE OWNERSHIP)

Name (Print) <u>MARIA L. DI NINANO</u>		Title <u>OWNER</u>	Residence Address <u>10510 Ridgewood Dr Palos Park, IL 60464</u>		City, State, Zip <u>IL 60464</u>
Social Security Number <u>342-56-6876</u>		Telephone Number <u>708-671-9984</u>	% Equity Ownership <u>100</u>	DRIVER'S LICENSE #	
Name (Print) <u>MARIA L. DI NINANO</u>		Title	Residence		City, State, Zip
Social Security Number		Telephone Number	% Equity Ownership	DRIVER'S LICENSE #	

## ADDITIONAL REFERENCES (PLEASE COMPLETE SECTION IN FULL)

Name <u>Giles</u>	Name <u>B+B</u>	1. Amex
Address	Address	2. Discover
City, State, Zip	City, State, Zip	3. Diners
Contact	Contact	4. Other
Phone <u>630-662-1000</u>	Phone <u>708-652-6023</u>	

## MERCHANT SITE SURVEY (TO BE COMPLETED BY SALES REPRESENTATIVE)

Merchant Location <input type="checkbox"/> Store Front <input type="checkbox"/> Office Building <input type="checkbox"/> Warehouse <input type="checkbox"/> Residence <input type="checkbox"/> Other _____	
Merchant <input type="checkbox"/> Owns <input type="checkbox"/> Leases the business premises	Landlord Name _____ Landlord Telephone # _____
Yes <input type="checkbox"/> No <input type="checkbox"/> Merchant appears to be conducting business as represented in this application.	Yes <input type="checkbox"/> No <input type="checkbox"/> Have you taken pictures inside and outside of the premise?
Yes <input type="checkbox"/> No <input type="checkbox"/> Merchant is adequately staffed and stocked to do business.	Yes <input type="checkbox"/> No <input type="checkbox"/> Have you confirmed the identity of the person who signed the contract?
Complete if MOTO, Internet or Future Services	
1) How does the customer order the product? <input type="checkbox"/> Mail <input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> Internet <input type="checkbox"/> Other _____	
2) Are consumers required to provide a deposit? <input type="checkbox"/> Yes <input type="checkbox"/> No	
3) Delivery Time Frame: <input type="checkbox"/> 0-7 days <input type="checkbox"/> 8-14 days <input type="checkbox"/> 15-30 days <input type="checkbox"/> More than 30 days	
4) Refund Policy _____	

I hereby verify that I have physically inspected the business premises of the merchant at this address and the information stated above is correct to the best of my knowledge.

Printed by (Print Name)	Signature	Date
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